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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,009	01/07/2002	James E. Doherty	ITWO:0009	2596

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EXAMINER

KERNs, KEVIN P

ART UNIT

PAPER NUMBER

1725

DATE MAILED: 09/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/041,009	DOHERTY, JAMES E.
Examiner	Art Unit	
Kevin P. Kerns	1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 03 July 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 27-33 is/are allowed.

6) Claim(s) 1-26 and 34-36 is/are rejected.

7) Claim(s) 35 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 07 January 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Objections***

1. Claim 35 is objected to because of the following informalities: in the 4<sup>th</sup> line of the claim, "to" should be added before "grip". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 5, 6, 8, 16-26, and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Colangelo, Jr. (US 6,025,574).

Colangelo, Jr. discloses a MIG welding assembly having the combination of an electric power source, a wire feeder, and an inert shielding gas source, in which the welding assembly additionally includes the following: an electrically coupled welding gun 1 with a handle 2 having first and second ends, as well as various cross-sectional shapes over its length in the longitudinal direction, but also having increasing cross-sectional area between the respective first and second handle ends (with respect to the

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approximate middle of the gripping portion of the handle), a trigger (switch) secured to the handle, and a welding cable secured to the handle that has a gripping portion to be held in a variety of orientations with respect to trigger position (abstract; column 1, lines 38-67; column 2, lines 1-30 and 66-67; column 3, lines 1-67; column 4, lines 1-67; column 5, lines 1-16; and Figures 1-8).

4. Claims 1-26 and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Wakeman (US 2003/0015510).

Wakeman discloses a welding gun configured for both arc (MIG) welding (having a shielding gas) and submerged arc welding (having a flux supply), in which the welding system additionally includes a power source, a wire feeder, a welding cable 30 electrically coupled to the power source, and a welding gun assembly 28 with a neck 92, a trigger 40 (switch) on a handle assembly 38 having various cross-sectional shapes over its length in the longitudinal direction, with the handle assembly 38 (gripping portion) being further comprised of two handle pieces (82,84) that increase in cross-sectional area between their respective first and second handle ends (with respect to the approximate middle of the gripping portion of the handle), such that the ends have respective recesses for securing and restricting movement of the welding cable with its associated (multi-faceted) member held thereon (abstract; paragraphs [0002]-[0015] and [0024]-[0041]; and Figures 1-6).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art

under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

***Allowable Subject Matter***

5. Claims 27-33 are allowed.
  
6. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach or suggest the following: 1) a method of assembling a configurable welding gun, in which the method includes disposing an operating switch in one of a first handle piece or a second handle piece and subsequently disposing a welding cable within one of the first and second handle pieces to orient the operating switch at the selected end of the welding handle (claim 27); 2) a configurable welding gun having a trigger securable to the handle, such that the handle is adapted to enable the trigger to be positioned in each of four quadrants of the handle (claim 30); and 3) a welding gun having first and second handle pieces adapted to receive a trigger, such that the first and second handle pieces are positionable to enable the position of the trigger on the welding handle is to be varied from a first position to a second position, with the second position being directly opposite the first position (claim 32).

***Response to Arguments***

7. The examiner acknowledges the applicant's amendment (paper #4) and Information Disclosure Statement (paper #5), both of which were received by the USPTO on July 3, 2003. The Information Disclosure Statement has been considered, initialed, and will be mailed with this communication. Prior objections to the drawings, specification, and claims, as well as the rejections under 35 USC 112, 2<sup>nd</sup> paragraph, have been overcome by the applicant's amendments and/or arguments. However, it is noted that a new claim objection has been raised by the applicant's amendment to claim 35. In addition, claim 36 remains pending in the application, but only claims 1-35 were acknowledged in the amendment (see pages 3-9 of the amendment, in which the status of claim 36 is absent). The status of claim 36 should be acknowledged in the next response. Due to the amendments and/or arguments, all previous prior art rejections have been overcome, with new rejections under newly cited references appearing above. Claims 1-36 remain under consideration in the application.
  
8. Applicant's arguments with respect to claims 1-26 and 34-36 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin P. Kerns whose telephone number is (703) 305-3472. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (703) 308-3318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

KPK  
kpk  
August 22, 2003

  
M. ALEXANDRA ELVE  
PRIMARY EXAMINER